

AN ACT in relation to the legislature.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Administrative Procedure Act is amended by changing and reenacting Sections 5-115, 5-120, and 5-125 and validating all actions taken thereunder as follows:

(5 ILCS 100/5-115) (from Ch. 127, par. 1005-115)

Sec. 5-115. Other action by the Joint Committee.

(a) If the Joint Committee determines that the adoption and effectiveness of a proposed rule, amendment, or repealer or portion of a proposed rule, amendment, or repealer by an agency would be objectionable under any of the standards for the Joint Committee's review specified in Section 5-100, 5-105, 5-110, 5-120, or 5-130 and would constitute a serious threat to the public interest, safety, or welfare, the Joint Committee may issue a statement to that effect at any time before the proposed rule, amendment, or repealer takes effect. The statement may be issued by the Joint Committee only upon the affirmative vote of three-fifths of the members appointed to the Joint Committee. The Joint Committee, however, may withdraw a statement within 180 days after it is issued upon the affirmative vote of a majority of the members appointed to the Joint Committee. A certified copy of each statement and withdrawal shall be transmitted to the proposing agency and to the Secretary of State for publication in the next available issue of the Illinois Register.

(b) The proposed rule, amendment, or repealer or the portion of the proposed rule, amendment, or repealer to which the Joint Committee has issued a statement under subsection (a) shall not be accepted for filing by the Secretary of State and shall not ~~nor~~ take effect unless the statement is withdrawn or a joint resolution is passed as provided in subsection (c). The

agency may not enforce or invoke for any reason a proposed rule, amendment, or repealer or any portion thereof that is prohibited from being filed by this subsection.

(c) After the issuance of a statement under subsection (a), any member of the General Assembly may introduce in the General Assembly a joint resolution stating that the General Assembly desires to discontinue the prohibition against the proposed rule, amendment, or repealer or the portion thereof to which the statement was issued being filed and taking effect. If the joint resolution is not passed by both houses of the General Assembly within 180 days after receipt of the statement by the Secretary of State or the statement is not withdrawn as provided in subsection (a), the agency shall be prohibited from filing the proposed rule, amendment, or repealer or the portion thereof and the proposed rule, amendment, or repealer or the portion thereof shall not take effect. The Secretary of State shall not accept for filing the proposed rule, amendment, or repealer or the portion thereof with respect to which the Joint Committee has issued a statement under subsection (a) unless that statement is withdrawn or a joint resolution is passed as provided in this subsection. If the 180-day period expires before passage of the joint resolution, the agency may not file the proposed rule, amendment, or repealer or the portion thereof as adopted and it shall not take effect.

(d) If a statement is issued under this Section, then, in response to an objection or suggestion of the Joint Committee, the agency may propose changes to the proposed rule, amendment, or repealer or portion of a proposed rule, amendment, or repealer. If the agency proposes changes, it must provide additional notice to the Joint Committee under the same terms and conditions and shall be subject to the same requirements and limitations as those set forth for a second notice period under subsection (c) of Section 5-40.

(Source: P.A. 93-1035, eff. 9-10-04.)

Sec. 5-120. Responsibilities of the Joint Committee with respect to emergency, peremptory, and other existing rules.

(a) The Joint Committee may examine any rule to determine whether the rule is within the statutory authority upon which it is based and whether the rule is in proper form.

(b) If the Joint Committee objects to a rule, it shall, within 5 days of the objection, certify the fact to the adopting agency and include within the certification a statement of its specific objections.

(c) Within 90 days after receiving the certification, the agency shall do one of the following:

(1) Notify the Joint Committee that it has elected to amend the rule to meet the Joint Committee's objection.

(2) Notify the Joint Committee that it has elected to repeal the rule.

(3) Notify the Joint Committee that it refuses to amend or repeal the rule.

(d) If the agency elects to amend a rule to meet the Joint Committee's objections, it shall notify the Joint Committee in writing and shall initiate rulemaking procedures for that purpose by giving notice as required by Section 5-35. The Joint Committee shall give priority to rules so amended when setting its agenda.

(e) If the agency elects to repeal a rule as a result of the Joint Committee's objections, it shall notify the Joint Committee in writing of its election and shall initiate rulemaking procedures for that purpose by giving notice as required by Section 5-35.

(f) If the agency elects to amend or repeal a rule as a result of the Joint Committee's objections, it shall complete the process within 180 days after giving notice in the Illinois Register.

(g) Failure of the agency to respond to the Joint Committee's objections to a rule within the time prescribed in subsection (c) shall constitute a refusal to amend or repeal the rule.

(h) If an agency refuses to amend or repeal a rule to remedy an objection stated by the Joint Committee, it shall notify the Joint Committee in writing of its refusal and shall submit a notice of refusal to the Secretary of State. The notice shall be published in the next available issue of the Illinois Register. If the Joint Committee, in response to an agency refusal, decides to suspend a ~~the~~ rule adopted under Section 5-45 or 5-50, then it may do so pursuant to Section 5-125. Any member of the General Assembly may introduce legislation in the General Assembly to implement the recommendations of the Joint Committee concerning emergency, peremptory, and other existing rules.

(Source: P.A. 93-1035, eff. 9-10-04.)

(5 ILCS 100/5-125) (from Ch. 127, par. 1005-125)

Sec. 5-125. Other Joint Committee action with respect to emergency or peremptory rulemaking.

(a) If the Joint Committee determines that a rule or portion of a rule adopted under Section 5-45 or 5-50 is objectionable under any of the standards for the Joint Committee's review specified in Section 5-100, 5-105, 5-110, 5-120, or 5-130 and constitutes a serious threat to the public interest, safety, or welfare, the Joint Committee may issue a statement to that effect. The statement may be issued by the Joint Committee only upon the affirmative vote of three-fifths of the members appointed to the Joint Committee. The Joint Committee, however, may withdraw a statement within 180 days after it is issued upon the affirmative vote of a majority of the members appointed to the Joint Committee. A certified copy of each statement and withdrawal shall be transmitted to the affected agency and to the Secretary of State for publication in the next available issue of the Illinois Register. Within 30 days of transmittal of the statement to the agency, the agency shall notify the Joint Committee in writing whether it has elected to repeal or amend the rule. Failure of the agency to notify the Joint Committee and Secretary of State within 30

days constitutes a decision by the agency to not repeal the rule.

(b) The effectiveness of the rule or the portion of a rule shall be suspended immediately upon receipt of the certified statement by the Secretary of State. The Secretary of State shall indicate the suspension prominently and clearly on the face of the affected rule or the portion of a rule filed in the Office of the Secretary of State. Rules or portions of rules suspended under this subsection shall not become effective again unless the statement is withdrawn as provided in subsection (a) or unless within 180 days from receipt of the statement by the Secretary of State, the General Assembly discontinues the suspension by joint resolution under subsection (c). The agency may not enforce, or invoke for any reason, a rule or portion of a rule that has been suspended under this subsection. During the 180-day period, the agency may not file, and nor may the Secretary of State may not accept for filing, any rule that (i) has the same purpose and effect as rules or portions of rules suspended under this subsection or (ii) does not substantially address the statement issued under subsection (a), except as otherwise provided in this Section.

(c) After the issuance of a statement under subsection (a), any member of the General Assembly may introduce in the General Assembly a joint resolution stating that the General Assembly desires to discontinue the suspension of effectiveness of a rule or the portion of the rule to which the statement was issued. If the joint resolution is not passed by both houses of the General Assembly within the 180-day period provided in subsection (b) or the statement is not withdrawn, the rule or the portion of the rule shall be considered repealed and the Secretary of State shall immediately remove the rule or portion of a rule from the collection of effective rules.

(d) If a statement is issued under this Section, then, in response to an objection or suggestion of the Joint Committee, the agency may propose changes to the rule, amendment, or

repealer or portion of a rule, amendment, or repealer. If the agency proposes changes, it must provide additional notice to the Joint Committee under the same terms and conditions and shall be subject to the same requirements and limitations as those set forth for a second notice period under subsection (c) of Section 5-40.

(Source: P.A. 93-1035, eff. 9-10-04.)

Section 99. Effective date. This Act takes effect upon becoming law.